THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3054 of 2007

26.4.2007

Between:

Chinta Narsimha, S/o.late Ramaiah
And others

… Petitioners

AND

B.Vishweshwar Reddy, S/o.late B.Ranga Reddy
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3054 of 2007

ORDER:

The petitioners are allegedly owners of land admeasuring Acs.19.35 gts in survey No.648 situated at Maisammaguda, Gundlapochampally village of Medchal Mandal in Ranga Reddy District. When respondents 1 to 5 allegedly interfere with peaceful possession of the petitioners, they filed O.S.No.691 of 2006 on the file of the Court of the Junior Civil Judge, Medchal, for permanent injunction. They also filed I.A. No.2323 of 2006 for ad interim injunction. Learned Junior Civil Judge passed orders on 22.12.2006 granting ad interim injunction restraining respondents 1 to 5 herein (defendants) from interfering with the peaceful possession and enjoyment of petition schedule property. Petitioners allege that so as to grab the property, respondents started construction compound wall. Petitioners gave representations to various authorities, in vain. Therefore, petitioners filed the present writ petition seeking a writ of Mandamus directing respondents 6 to 10 herein to forthwith stop the construction being made by respondents 1 to 5.

When the matter was heard on 28.2.2007, learned Counsel for respondents 1 to 5 brought to the notice of this Court that there are as many as five suits including declaration suit filed by the respondents, who are the pattadars. Therefore time was granted to file counter. A counter affidavit is filed by the second respondent opposing the writ petition. A reference is made to the suits and counter suits filed by the parties or the persons claiming through the petitioners. It is also stated that respondents 1 to 5 have filed O.P.No.132 of 2007 before the Court of the District Judge, Ranga Reddy, for transfer of O.S.Nos.525 of 2004, 657 of 2006, 691 of 2006, 29 of 2007 and 31 of 2007 pending on the file of the Court of the Junior Civil Judge, Medchal, to the Court of I Additional District Judge, Ranga Reddy District, for being tried along

with O.S.No.39 of 2007 filed by respondents for declaration of title.

After hearing learned Counsel for petitioners learned Assistant Government Pleader for Revenue (General-T) and learned Counsel for respondents 1 and 2, this Court is convinced that the writ petition is misconceived. It is well settled that when a person has already availed remedies in private law, such person cannot be allowed to simultaneously invoke public law remedy under Article 226 of the Constitution of India. A reference may be made to the judgments of the Supreme Court in **K.S.RASHID & SON v. ITI COMMISSION**[1], **CARL STILL G.M.B.H. v. STATE OF BIHAR**[2] and **JAI SINGH v. UNION OF INDIA**[3]. Further, petitioners admittedly filed O.S.No.691 of 2006 and obtained interim injunction in I.A. No.2323 of 2006 from the Court of Junior Civil Judge, Medchal. If there is any contravention of injunction by the respondents as alleged, it is always open to the petitioners to approach the Civil Court.

The writ petition is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

April 26, 2007.
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[1] AIR 1954 SC 207

[2] AIR 1961 SC 1615

[3] AIR 19 77 SC 898